

1 GAIL C. TRABISH, ESQ. (#103482)
 2 BOORNAZIAN, JENSEN & GARTHE
 3 A Professional Corporation
 4 555 12th Street, Suite 1800
 5 P. O. Box 12925
 6 Oakland, CA 94604-2925
 7 Telephone: (510) 834-4350
 8 Facsimile: (510) 839-1897

9 Attorneys for Defendant
 10 TARGET STORES, a division
 11 of Target Corporation, erroneously
 12 sued herein as Target Corporation

13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 JANINE FUJIOKA,
 17 Plaintiff,

18 vs.

19 VINTAGE OAKS SHOPPING CENTER;
 20 JAMES CAMPBELL COMPANY, LLC;
 21 TARGET CORPORATION; and DOES 1-50,
 22 inclusive,

23 Defendants.

24) Case No. C 07 4393

25) [San Francisco County Superior Court Case
 26) No.: CGC-07-465141

27) **PETITION FOR REMOVAL OF
 28) ACTION PURSUANT TO 28 U.S.C.
 29) §1441(b) [DIVERSITY]**

30) Complaint Filed: July 13, 2007

31 TO THE CLERK OF THE ABOVE ENTITLED COURT:

32 PLEASE TAKE NOTICE that Defendant TARGET STORES, a division of Target
 33 Corporation (hereinafter "Target"), erroneously sued herein as Target Corporation, hereby moves
 34 to this Court the state court action described below.

35 I. JURISDICTION

36 1. Defendant TARGET is informed and believes that plaintiff Janine Fujioka is a
 37 citizen of the State of California, and was at the time of the filing of the complaint and this Petition
 38 for Removal.

39 2. Defendant TARGET is a Minnesota corporation, whose principal place of business
 40 is in Roseville, Minnesota.

3. Defendant Vintage Oaks Shopping Center and James Campbell Company, LLC are believed to be limited liability companies registered in the State of Hawaii.

4. TARGET is a publicly held corporation whose Chairman and Chief Executive Officer is Bob Ulrich.

5. Defendant TARGET is not a citizen of the state in which this action is pending.

6. Defendant TARGET believes that the remaining defendants are not citizens of the state in which this action is pending.

7. The matter in controversy exceeds the sum of \$75,000, exclusive of interest, attorney's fees and costs.

8. The Court has jurisdiction by virtue of 28 U.S.C. §1332 and 28 U.S.C. §1441(b).

II. GROUNDS FOR REMOVAL

7. On July 13, 2007, a civil action was commenced in the San Francisco County Superior Court, Unlimited Jurisdiction, of the State of California, entitled *Janine Fujioka v. Vintage Oaks Shopping Center; James Campbell Company, LLC; Target Corporation; and Does 1-50, inclusive*, Action No. CGC-07-465141. In said complaint, plaintiff alleges damages arising out of a motor vehicle accident at the Vintage Oaks Shopping Center located in Novato, California. A true and correct copy of the summons and complaint is attached hereto and marked as **Exhibit A**.

8. Defendant TARGET was served with a copy of said Complaint on July 26, 2007. A true and correct copy of the Proof of Service is attached hereto and marked as **Exhibit B**.

9. Defendant TARGET has not yet filed an answer to plaintiff's unverified complaint. Defendant TARGET obtained an extension to respond to the complaint until August 28, 2007.

10. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332, and the complaint is one which may be removed to this Court by Defendant TARGET pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states, and

1 the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2 11. Defendant TARGET is informed and believes that none of the remaining
3 defendants are citizens of the State of California.

4 Based on the foregoing, Defendant TARGET respectfully requests that this Court accept
5 removal of this action.

6 DATED: August 24, 2007

7 BOORNAZIAN, JENSEN & GARTHE
A Professional Corporation

8 By: _____

9 

10 GAIL C. TRABISH, ESQ.

11 Attorneys for Defendant
12 TARGET STORES, a division of
Target Corporation, erroneously sued
herein as Target Corporation

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SUM-100

SUMMONS
(CITACION JUDICIAL)FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Vintage Oaks Shopping Center; James Campbell Company, LLC;
Target Corporation; and DOES 1 through 50, inclusive.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTA DEMANDANDO EL DEMANDANTE):

Janine Fujioka

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por Incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

San Francisco Superior Court

CASE NO. **CCD7-465141**

400 McAllister Street

San Francisco, CA 94102

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Matthew D. Davis

Walkup Melodia Kelly Wecht & Schoenberger

650 California Street, 26th Floor

San Francisco, CA 94108

(415) 981-7210

GORDON PARKER

CRISTINA E. BAUTISTA

DATE:

Clerk, by _____

, Deputy

(Fecha) **JUL 13 2007**

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

SEAL:

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

Under: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.40 (association or partnership) other (specify):

4. by personal delivery on (date): **1/26/07** (cc: **CCD7-465141**)

BY FAX

Target Corporation

CCP 416.60 (minor)
 CCP 416.70 (conservator)
 CCP 416.90 (authorized person)

EXHIBIT A

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
Matthew D. Davis Walkup Melodia Kelly Wecht & Schoenberg 650 California Street, 26th Floor San Francisco, CA 94108 TELEPHONE NO.: (415) 981-7210 FAX NO. (if different): (415) 391-6965 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff Janine Fujioka		141986
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: PLAINTIFF: Janine Fujioka		ENDORSED FILED <i>San Francisco County Superior Court</i> JUL 18 2007 GORDON PARK-LI, Clerk BY: CHRISTINE BALIBISTAN CASE MANAGEMENT CONFERENCE DEC 14 2007 - 9 AM DEPARTMENT 212
DEFENDANT: Vintage Oaks Shopping Center; James Campbell Company, LLC; Target Corporation; and <input checked="" type="checkbox"/> DOES 1 TO 50, inclusive COMPLAINT-Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input checked="" type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		

1. Plaintiff (name or names): Janine Fujioka

alleges causes of action against defendant (name or names): Vintage Oaks Shopping Center; James Campbell Company, LLC; Target Corporation and DOES 1 through 50, inclusive

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5
3. Each plaintiff named above is a competent adult

a. except plaintiff (name):
(1) a corporation qualified to do business in California
(2) an unincorporated entity (describe):
(3) a public entity (describe):
(4) a minor an adult
(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
(b) other (specify):
(5) other (specify):

b. except plaintiff (name):
(1) a corporation qualified to do business in California
(2) an unincorporated entity (describe):
(3) a public entity (describe):
(4) a minor an adult
(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
(b) other (specify):
(5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

BY FAX

SHORT TITLE: Fujioka v. Vintage Oaks Shopping Center, et al.	CASE NUMBER:
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4. Plaintiff (name):
Is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. except defendant (name):

Vintage Oak Mall

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

c. except defendant (name):

James Campbell Company, LLC

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

b. except defendant (name):

Target Corporation

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

d. except defendant (name):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. Doe defendants (specify Doe numbers): 21 through 50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b. Doe defendants (specify Doe numbers): are persons whose capacities are unknown to plaintiff.

7. Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. at least one defendant now resides in its jurisdictional area.

b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

c. injury to person or damage to personal property occurred in its jurisdictional area.

d. other (specify):

9. Plaintiff is required to comply with a claims statute, and

a. has complied with applicable claims statutes, or

b. is excused from complying because (specify):

SHORT TITLE:
Fujioka v. Vintage Oaks Shopping Center, et al.

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- Motor Vehicle
- General Negligence
- Intentional Tort
- Products Liability
- Premises Liability
- Other (specify):

11. Plaintiff has suffered

- wage loss
- loss of use of property
- hospital and medical expenses
- general damage
- property damage
- loss of earning capacity
- other damage (specify):

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- listed in Attachment 12.
- as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- (1) compensatory damages
- (2) punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) according to proof
- (2) in the amount of: \$

15. The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: July 13, 2007

Matthew D. Davis

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Fujioka v. Vintage Oaks Shopping Center, et al.	CASE NUMBER:
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First _____ **CAUSE OF ACTION- General Negligence** Page 4 _____

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Janine Fujioka

alleges that defendant (name): Vintage Oaks Shopping Center, James Campbell Company, LLC, and Target Corporation

Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): July 16, 2005

at (place): Vintage Oaks Shopping Center, James Campbell Company, LLC and Target Corporation

(description of reasons for liability) :

Defendant negligently, carelessly and recklessly operated their premises, including the adjacent parking lot, and plaintiff was struck by a motor vehicle in said parking lot. She sustained serious injuries, including without limitation leg fractures.

SHORT TITLE: Fujioka v. Vintage Oaks Shopping Center, et al.	CASE NUMBER:
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Second
(number)**CAUSE OF ACTION- Premises Liability**

Page 5

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Janine Fujioka

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): July 16, 2005 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury)

She was struck by a vehicle while walking in the parking lot at Vintage Oaks Shopping Center and in front of the Target store.

Prem.L-2. Count One-Negligence The defendants who negligently owned, maintained, managed and operated the described premises were (names):

Vintage Oaks Shopping Center, James Campbell Company, LLC and Target Corporation

 Does 1 to 20Prem.L-3. Count Two-Willful Failure to Warn [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names): Vintage Oaks Shopping Center, James Campbell Company, LLC and Target Corporation Does 1 to 20Plaintiff, a recreational user, was an invited guest a paying guest.Prem.L-4. Count Three-Dangerous Condition of Public Property The defendants who owned public property on which a dangerous condition existed were (names):a. Does _____ to _____b. The defendant public entity had actual constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.b. The condition was created by employees of the defendant public entity.Prem.L-5. a. Allegations about Other Defendants The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names): Does 21 to 50b. The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are described in attachment Prem.L-5.b as follows (names):

EXHIBIT B

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

07/26/2007
Log Number 512439406



TO: Carter Leuty
Target Corporation
1000 Nicollet Mall
Minneapolis, MN, 55403-

RE: **Process Served in California**

FOR: Target Corporation (Domestic State: MN)

T-Legal 7-31-07
RE 7-31-07
Zee KE
Dkt. No. 000617649F
Csd: 7/30/07

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Janine Fujioka, Pltf. vs. Vintage Oaks Shopping Center, et al. including Target Corporation, Dfts.

DOCUMENT(S) SERVED: Summons, Complaint, Notice to Plaintiff, Attachment(s), Stipulation Form, Case Management Statement

COURT/AGENCY: San Francisco County- San Francisco, Superior Court, CA
Case # CGC07465141

NATURE OF ACTION: Personal Injury - Vehicle Collision - On July 16, 2005

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Process Server on 07/26/2007 at 13:00

APPEARANCE OR ANSWER DUE: Within 30 days after service - file written response // December 14, 2007 at 9:00 a.m.
- Case Management Conference

ATTORNEY(S) / SENDER(S): Matthew D. Davis
Walkup Melodia Kelly Wecht & Schoenberger
650 California Street
26th Floor
San Francisco, CA, 94108
415-981-7210

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day, 790792524329

SIGNED: C T Corporation System
PER: Dianne Christman
ADDRESS: 818 West Seventh Street
Los Angeles, CA, 90017
TELEPHONE: 213-337-4615

RECEIVED ON 7/30/07 AT 12:30
VIA fed EX FORWARD ON 7/30/07 AT 12:30
Sedgwick BY Sue Carter

RECEIVED ON 7/30/07 AT 12:30
VIA fed EX FORWARD ON 7/30/07 AT 12:30
BY Sue Carter

Page 1 of 1 / NF

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

EXHIBIT B

CERTIFICATE OF SERVICE
(28 U.S.C. §1746)

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441(b) [DIVERSITY]; CIVIL CASE COVER SHEET**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Matthew D. Davis, Esq.
Doug Saeltzer, Esq.
Walkup Melodia Kelly Wecht &
Schoenberg
650 California Street, 26th Floor
San Francisco, CA 94108
(415) 981-7210 Phone
(415) 391-6965 Fax

Attorneys for Plaintiff

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on August 21, 2007.

Alexine L. Braun

GCT01\412845